

§ 115.164

ensure that the allegation is investigated in accordance with these standards.

§ 115.164 Staff first responder duties.

(a) Upon learning of an allegation that a detainee was sexually abused, the first law enforcement staff member to respond to the report shall be required to:

(1) Separate the alleged victim and abuser;

(2) Preserve and protect any crime scene until appropriate steps can be taken to collect any evidence;

(3) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and

(4) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.

(b) If the first staff responder is not a law enforcement staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and then notify law enforcement staff.

§ 115.165 Coordinated response.

(a) The agency shall develop a written institutional plan to coordinate actions taken in response to a lockup incident of sexual abuse, among staff first responders, medical and mental health practitioners, investigators, and agency leadership.

(b) If a victim is transferred from the lockup to a jail, prison, or medical facility, the agency shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services, unless the victim requests otherwise.

28 CFR Ch. I (7–1–13 Edition)

§ 115.166 Preservation of ability to protect detainees from contact with abusers.

(a) Neither the agency nor any other governmental entity responsible for collective bargaining on the agency's behalf shall enter into or renew any collective bargaining agreement or other agreement that limits the agency's ability to remove alleged staff sexual abusers from contact with detainees pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted.

(b) Nothing in this standard shall restrict the entering into or renewal of agreements that govern:

(1) The conduct of the disciplinary process, as long as such agreements are not inconsistent with the provisions of §§ 115.172 and 115.176; or

(2) Whether a no-contact assignment that is imposed pending the outcome of an investigation shall be expunged from or retained in the staff member's personnel file following a determination that the allegation of sexual abuse is not substantiated.

§ 115.167 Agency protection against retaliation.

(a) The agency shall establish a policy to protect all detainees and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other detainees or staff, and shall designate which staff members or departments are charged with monitoring retaliation.

(b) The agency shall employ multiple protection measures, such as housing changes or transfers for detainee victims or abusers, removal of alleged staff or detainee abusers from contact with victims, and emotional support services for staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

(c) The agency shall monitor the conduct and treatment of detainees or staff who have reported sexual abuse and of detainees who were reported to have suffered sexual abuse, and shall act promptly to remedy any such retaliation.